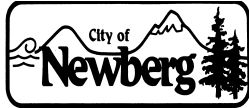


Failed to Pass on October 20, 2008



ORDINANCE No. 2008-2707

AN ORDINANCE AUTHORIZING THE NEWBERG-DUNDEE POLICE DEPARTMENT TO ENFORCE A DAYTIME CURFEW DURING REGULAR SCHOOL HOURS FOR SCHOOL AGE MINORS WHO ARE IN A PUBLIC PLACE WITHOUT AUTHORIZATION, PROVIDING PENALTIES AND AMENDING THE NEWBERG CODE

RECITALS:

1. The concept of a daytime curfew ordinance was proposed by the Newberg-Dundee Police Department and Newberg School District in June 2008. The ordinance was proposed in response to concerns of the Newberg School District and police department regarding minor age students who were not in school during regular school hours and could potentially be involved in illegal behavior. A daytime curfew ordinance will authorize law enforcement to place those minors in violation of the ordinance into protective custody and return them to their school or legal guardian.
2. In June 2008, the Newberg School Board endorsed the proposed ordinance in substantially the form in which it appears before the City Council.
3. On August 4, 2008, the City Council held a work session on this ordinance .

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1: Daytime Curfew

The Code of Newberg is hereby amended to read as follows:

§ 133.05 DAYTIME CURFEW.

(A) *Prohibition.* No minor between the ages of 7 and 18 years who has not completed the twelfth grade shall be in or upon any street, highway, park, alley, or other public place during regular school hours, as required by ORS 339.010 to 339.065, unless:

- (1) The minor is accompanied by a parent, guardian, or other person 18 years of age or over who has been authorized by the parent or by law to have care and custody of the minor;
- (2) The minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during regular school hours and is authorized by the minor's parent, guardian, or other person having the legal care

and custody of such minor;

- (3) The minor is lawfully emancipated pursuant to ORS 419B.550 to 419B.558;
- (4) The minor is authorized and approved to be away from the school as provided in ORS 339.065, but is not suspended or expelled;
- (5) The minor is exempt from compulsory school attendance under ORS 339.030, student is attending private school or home school, or;
- (6) The minor is exercising First Amendment rights protected by the United States Constitution.

(B) *Hours of daytime curfew.* For purposes of this section, regular school hours are the hours during which the child is scheduled to be in classes or on campus.

(C) *Prohibition for parent or guardian.* No parent, guardian, or person having the care and custody of a minor who is under the age of 18 years and who is not otherwise exempted from the provisions of this section, shall allow such minor to be in or upon any street, highway, park, alley, or other public place between the hours specified in this ordinance, except as otherwise provided in this ordinance.

(D) *Authority of law enforcement.* A police officer or any other law enforcement officer is hereby authorized and empowered to take charge of any person under the age of 18 years violating the provisions of this ordinance. It shall be the duty of an officer taking charge of this minor to immediately attempt to notify the parent or guardian of the minor that the minor has been taken into the charge of the officer. The officer may then release the minor to the principal or other designated official at the school at which the minor is enrolled. In lieu of releasing the minor to the principal or other designated official at the school at which the minor is enrolled, the officer may hold or make provisions for the minor to be held until the officer or other person in charge of the minor is able to release the minor directly to the parent or guardian.

Section 2: Renumbering of Code Section

The amendment to the Code of Newberg to provide for the daytime curfew is best made following the section dealing with the present curfew (nighttime); therefore the following code provisions need to be renumbered as follows:

§133.05 PLACES OF AMUSEMENT is changed to §133.06

§133.06 MISREPRESENTATION OF AGE BY MINOR is changed to § 133.07

§133.07 FAILING TO SUPERVISE A CHILD is changed to § 133.08

Section 3: Penalty

Any minor who violates any provision of this chapter may be fined up to \$100 and/or be taken into custody as provided in ORS 419C.080, 419C.085 and 419.088. The minor may be subjected to

further proceedings as provided by law. These penalties are the same as the City of Newberg's nighttime curfew penalties (133.04 Curfew). Therefore, the Code of Newberg provision **§133.99 PENALTY. (B)** is amended to read as follows:

Any minor who violates the provisions of § 133.04 **or §133.05** of this chapter may be fined up to \$100 and/or be taken into custody as provided in O.R.S. 419C.080, 419C.085 and 419.088. The minor may be subjected to further proceedings as provided by law.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: November 19, 2008
ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of October, 2008,
by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:** **VACANT:**

Norma I. Alley, City Recorder

ATTEST by the Mayor this 23rd day of October, 2008.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____/____/200x meeting. Or, X None.
(committee name) (date) (check if applicable)